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LSI CORPORATION and
AGERE SYSTEMS INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

BARNES & NOBLE, INC. and
BARNESANDNOBLE.COM LLC,

Plaintiffs,

v.

LSI CORPORATION and
AGERE SYSTEMS INC.,

Defendants.

Case No.: 11-CV-02709 EMC

**DEFENDANTS LSI CORPORATION AND
AGERE SYSTEM INC.'S ANSWER TO
PLAINTIFFS' AMENDED COMPLAINT
FOR DECLARATORY JUDGMENT OF
PATENT NON-INFRINGEMENT AND
INVALIDITY AND COUNTERCLAIMS**

The Hon. Edward M. Chen

JURY TRIAL DEMANDED

I. ANSWER

Declaratory judgment defendants LSI Corporation ("LSI") and Agere Systems, Inc. ("Agere," and collectively with LSI, "Defendants") hereby answer plaintiffs Barnes & Noble, Inc. ("Barnes & Noble") and Barnesandnoble.com LLC's ("Barnesandnoble.com," and collectively, "Plaintiffs") Amended Complaint for Declaratory Judgment ("Complaint"), and counter-claim against Plaintiffs as set forth below:

THE NATURE OF THE ACTION

1. Defendants admit that LSI is the assignee of U.S. Patent No. 6,119,091 (the “’091 patent”), entitled “DVD Audio Decoder Having a Direct Access PCM FIFO.” Defendants deny each and every remaining allegation in Paragraph 1 of the Complaint.

2. Defendants deny each and every allegation in Paragraph 2 of the Complaint.

3. Defendants deny each and every allegation in Paragraph 3 of the Complaint.

4. Defendants admit that Barnes & Noble and Barnesandnoble.com seek declaratory judgments of non-infringement and invalidity of U.S. Patent No. 5,546,420 (the “’420 patent”), entitled “Methods of and Devices for Enhancing Communications that Use Spread Spectrum Technology by Using Variable Power Techniques”; U.S. Patent No. 5,670,730 (the “’730 patent”), entitled “Data Protocol and Method for Segmenting Memory for a Music Chip”; U.S. Patent No. 5,862,182 (the “’182 patent”), entitled “OFDM Digital Communications System Using Complementary Codes”; U.S. Patent No. 5,920,552 (the “’552 patent”), entitled “Variable Rate Coding for Wireless Applications”; U.S. Patent No. 6,044,073 (the “’073 patent”), entitled “Methods of and Devices for Enhancing Communications that Use Spread Spectrum Technology by Using Variable Power Techniques”; U.S. Patent No. 6,404,732 (the “’732 patent”), entitled “Digital Modulation System Using Modified Orthogonal Codes to Reduce Autocorrelation”; U.S. Patent No. 6,452,958 (the “’958 patent”), entitled “Digital Modulation System Using Extended Code Set”; U.S. Patent No. 6,707,867 (the “’867 patent”), entitled “Wireless Local Area Network Apparatus”; U.S. Patent No. 7,583,582 (the “’582 patent”), entitled “M-ary Orthogonal Keying System”; and U.S. Patent No. 7,477,633 (the “’633 patent”), entitled “Method and apparatus for varying the number of pilot tones in a multiple antenna communication system” (collectively, the “Agere Patents”) and of U.S. Patent No. 6,119,091 (the “’091 patent”), entitled “DVD Audio Decoder Having a Direct Access PCM FIFO” (collectively with the Agere Patents, the “patents-in-suit”).

THE PARTIES

5. Defendants admit that Barnes & Noble purports to be a Delaware corporation with its principal place of business at 122 Fifth Avenue, New York, New York 10011.

6. Defendants admit that Barnesandnoble.com purports to be a Delaware corporation with its principal place of business at 76 Ninth Avenue, New York, New York 10011.

7. Defendants admit that LSI is a Delaware corporation and has its principal place of business at 1621 Barber Lane, Milpitas, California 95035.

8. Defendants admit that Agere is a Delaware corporation and has its principal place of business at 1110 American Parkway, N.E., Allentown, Pennsylvania 18109.

JURISDICTION AND VENUE

9. Defendants admit that the Complaint purports to set forth claims arising under the patent laws of the United States.

10. Defendants admit that this Court has subject matter jurisdiction over this action (as amended) pursuant to 28 U.S.C. §§ 1331, 1338(a), but as set forth in their motions to dismiss, Defendants deny that subject matter jurisdiction over the newly added claims against Agere is proper otherwise, and hereby preserve their right to appeal the Court's ruling on these motions.

11. Defendants admit that LSI maintains its corporate headquarters in the State of California and that this Court has personal jurisdiction over LSI. Defendants deny each and every remaining allegation in Paragraph 11 of the Complaint.

12. Defendants admit that Agere has participated in a prior litigation in this forum, *SanDisk Corp. v. LSI Corp.*, Case No. 09-cv-2797-WHA, a case that involved claims of infringement of the '730 patent. Defendants further admit that this Court has personal jurisdiction over Agere for purposes of this lawsuit only. Defendants deny each and every remaining allegation in Paragraph 12 of the Complaint.

13. Defendants admit that, beginning in June 2010 Barnes & Noble was put on notice that products that it made, used, sold, offered for sale, and/or imported into the United States infringed one or more claims of the patents-in-suit, and that Defendants gave Barnes & Noble an opportunity to obtain licenses to those patents. Defendants admit that Barnes & Noble, being aware of its infringing actions, could reasonably apprehend litigation relating to that infringement. Defendants deny each and every remaining allegation in Paragraph 13 of the Complaint.

14. Defendants admit that venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and (c), but deny that this forum is convenient under 28 U.S.C. § 1404.

INTRADISTRICT ASSIGNMENT

15. Defendants admit that this is an Intellectual Property Action under Civil L.R. 3-2(c), but deny that the action needs to be reassigned.

GENERAL ALLEGATIONS

16. Defendants admit that LSI is the assignee of the '091 patent and that Agere is the assignee of the Agere Patents. Defendants further admit that Plaintiffs purports to have attached as Exhibits A through K true and correct copies of the patents-in-suit. Defendants deny each and every remaining allegation in Paragraph 16 of the Complaint.

17. Defendants deny each and every allegation in Paragraph 17 of the Complaint.

18. Defendants deny each and every allegation in Paragraph 18 of the Complaint.

19. Defendants admit that on July 27, 2011, LSI and Agere filed suit against Barnes & Noble and Barnesandnoble.com in the United States District Court for the Eastern District of Pennsylvania, alleging infringement of the patents-in-suit.

20. Defendants are without knowledge and therefore deny each and every allegation in Paragraph 20 of the Complaint.

21. Defendants deny each and every allegation in Paragraph 21 of the Complaint.

22. Defendants deny each and every allegation in Paragraph 22 of the Complaint.

FIRST CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement and Invalidity of U.S. Patent No. 5,546,420)

23. Defendants hereby repeat and incorporate by reference Defendants' replies to paragraphs 1 through 22 of the Complaint, as though fully set forth herein.

24. Defendants deny each and every allegation in Paragraph 24 of the Complaint..

25. Defendants deny each and every allegation in Paragraph 25 of the Complaint.

26. Defendants admit that there is an actual controversy between Agere and Barnes & Noble and Barnesandnoble.com with respect to Barnes & Noble and Barnesandnoble.com's infringement of the '420 patent. Defendants deny each and every remaining allegation in

Paragraph 26 of the Complaint.

27. Defendants deny each and every allegation in Paragraph 27 of the Complaint..

SECOND CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement and Invalidity of U.S. Patent No. 5,670,730)

28. Defendants hereby repeat and incorporate by reference Defendants' replies to paragraphs 1 through 22 of the Complaint, as though fully set forth herein.

29. Defendants deny each and every allegation in Paragraph 29 of the Complaint.

30. Defendants deny each and every allegation in Paragraph 30 of the Complaint.

31. Defendants admit that there is an actual controversy between Agere and Barnes & Noble and Barnesandnoble.com with respect to Barnes & Noble and Barnesandnoble.com's infringement of the '730 patent. Defendants deny each and every remaining allegation in Paragraph 31 of the Complaint.

32. Defendants deny each and every allegation in Paragraph 32 of the Complaint.

THIRD CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement and Invalidity of U.S. Patent No. 5,862,182)

33. Defendants hereby repeat and incorporate by reference Defendants' replies to paragraphs 1 through 22 of the Complaint, as though fully set forth herein.

34. Defendants deny each and every allegation in Paragraph 34 of the Complaint.

35. Defendants deny each and every allegation in Paragraph 35 of the Complaint.

36. Defendants admit that there is an actual controversy between Agere and Barnes & Noble and Barnesandnoble.com with respect to Barnes & Noble and Barnesandnoble.com's infringement of the '182 patent. Defendants deny each and every remaining allegation in Paragraph 36 of the Complaint.

37. Defendants deny each and every allegation in Paragraph 37 of the Complaint.

FOURTH CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement and Invalidity of U.S. Patent No. 5,920,552)

38. Defendants hereby repeat and incorporate by reference Defendants' replies to paragraphs 1 through 22 of the Complaint, as though fully set forth herein.

39. Defendants deny each and every allegation in Paragraph 39 of the Complaint.

40. Defendants deny each and every allegation in Paragraph 40 of the Complaint.

41. Defendants admit that there is an actual controversy between Agere and Barnes & Noble and Barnesandnoble.com with respect to Barnes & Noble and Barnesandnoble.com's infringement of the '552 patent. Defendants deny each and every remaining allegation in Paragraph 41 of the Complaint.

42. Defendants deny each and every allegation in Paragraph 42 of the Complaint.

FIFTH CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement and Invalidity of U.S. Patent No. 6,044,073)

43. Defendants hereby repeat and incorporate by reference Defendants' replies to paragraphs 1 through 22 of the Complaint, as though fully set forth herein.

44. Defendants deny each and every allegation in Paragraph 44 of the Complaint.

45. Defendants deny each and every allegation in Paragraph 45 of the Complaint.

46. Defendants admit that there is an actual controversy between Agere and Barnes & Noble and Barnesandnoble.com with respect to Barnes & Noble and Barnesandnoble.com's infringement of the '073 patent. Defendants deny each and every remaining allegation in Paragraph 46 of the Complaint.

47. Defendants deny each and every allegation in Paragraph 47 of the Complaint.

SIXTH CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement and Invalidity of U.S. Patent No. 6,119,091)

48. Defendants hereby repeat and incorporate by reference Defendants' replies to paragraphs 1 through 22 of the Complaint, as though fully set forth herein.

49. Defendants deny each and every allegation in Paragraph 49 of the Complaint.

50. Defendants deny each and every allegation in Paragraph 50 of the Complaint.

51. Defendants admit that there is an actual controversy between LSI and Barnes & Noble and Barnesandnoble.com with respect to Barnes & Noble and Barnesandnoble.com's infringement of the '091 patent. Defendants deny each and every remaining allegation in Paragraph 51 of the Complaint.

52. Defendants deny each and every allegation in Paragraph 52 of the Complaint..

SEVENTH CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement and Invalidity of U.S. Patent No. 6,404,732)

53. Defendants hereby repeat and incorporate by reference Defendants' replies to paragraphs 1 through 22 of the Complaint, as though fully set forth herein.

54. Defendants deny each and every allegation in Paragraph 54 of the Complaint.

55. Defendants deny each and every allegation in Paragraph 55 of the Complaint.

56. Defendants admit that there is an actual controversy between Agere and Barnes & Noble and Barnesandnoble.com with respect to Barnes & Noble and Barnesandnoble.com's infringement of the '732 patent. Defendants deny each and every remaining allegation in Paragraph 56 of the Complaint.

57. Defendants deny each and every allegation in Paragraph 57 of the Complaint.

EIGHTH CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement and Invalidity of U.S. Patent No. 6,452,958)

58. Defendants hereby repeat and incorporate by reference Defendants' replies to paragraphs 1 through 22 of the Complaint, as though fully set forth herein.

59. Defendants deny each and every allegation in Paragraph 59 of the Complaint.

60. Defendants deny each and every allegation in Paragraph 60 of the Complaint.

61. Defendants admit that there is an actual controversy between Agere and Barnes & Noble and Barnesandnoble.com with respect to Barnes & Noble and Barnesandnoble.com's infringement of the '958 patent. Defendants deny each and every remaining allegation in Paragraph 61 of the Complaint.

62. Defendants deny each and every allegation in Paragraph 62 of the Complaint.

NINTH CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement and Invalidity of U.S. Patent No. 6,707,867)

63. Defendants hereby repeat and incorporate by reference Defendants' replies to paragraphs 1 through 22 of the Complaint, as though fully set forth herein.

64. Defendants deny each and every allegation in Paragraph 64 of the Complaint.

65. Defendants deny each and every allegation in Paragraph 65 of the Complaint.

66. Defendants admit that there is an actual controversy between Agere and Barnes & Noble and Barnesandnoble.com with respect to Barnes & Noble and Barnesandnoble.com's infringement of the '867 patent. Defendants deny each and every remaining allegation in Paragraph 66 of the Complaint.

67. Defendants deny each and every allegation in Paragraph 67 of the Complaint.

TENTH CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement and Invalidity of U.S. Patent No. 7,583,582)

68. Defendants hereby repeat and incorporate by reference Defendants' replies to paragraphs 1 through 22 of the Complaint, as though fully set forth herein.

69. Defendants deny each and every allegation in Paragraph 69 of the Complaint.

70. Defendants deny each and every allegation in Paragraph 70 of the Complaint.

71. Defendants admit that there is an actual controversy between Agere and Barnes & Noble and Barnesandnoble.com with respect to Barnes & Noble and Barnesandnoble.com's infringement of the '582 patent. Defendants deny each and every remaining allegation in Paragraph 71 of the Complaint.

72. Defendants deny each and every allegation in Paragraph 72 of the Complaint.

ELEVENTH CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement and Invalidity of U.S. Patent No. 7,477,633)

73. Defendants hereby repeat and incorporate by reference Defendants' replies to paragraphs 1 through 22 of the Complaint, as though fully set forth herein.

74. Defendants deny each and every allegation in Paragraph 74 of the Complaint.

75. Defendants deny each and every allegation in Paragraph 75 of the Complaint.

76. Defendants admit that there is an actual controversy between Agere and Barnes & Noble and Barnesandnoble.com with respect to Barnes & Noble and Barnesandnoble.com's infringement of the '633 patent. Defendants deny each and every remaining allegation in Paragraph 76 of the Complaint.

77. Defendants deny each and every allegation in Paragraph 77 of the Complaint.

PRAYER FOR RELIEF

Defendants deny that Plaintiffs are entitled to any relief requested or to any relief whatsoever.

II. DEFENSES

Defendants allege and assert the following defenses in response to the allegations of the Complaint, undertaking the burden of proof only as to those defenses deemed affirmative defenses by law, regardless of how such defenses are denominated herein:

1. Plaintiffs have each infringed the patents-in-suit.
2. The patents-in-suit are valid and enforceable.

Defendants reserve the right to assert affirmative and other defenses in the event that discovery or other analysis indicates that additional defenses are appropriate.

III. COUNTERCLAIMS

LSI Corporation ("LSI") and Agere Systems Inc. ("Agere," and collectively with LSI, "Counterclaimants") assert the following counterclaims against Barnes & Noble, Inc. ("Barnes & Noble") and Barnesandnoble.com LLC ("Barnesandnoble.com," and collectively with Barnes & Noble, "Counterclaim Defendants"):

THE NATURE OF THE ACTION

1. This is a civil action for infringement of U.S. Patent No. 5,546,420 (the "'420 patent"), entitled "Methods of and Devices for Enhancing Communications that Use Spread Spectrum Technology by Using Variable Power Techniques"; U.S. Patent No. 5,670,730 (the "'730 patent"), entitled "Data Protocol and Method for Segmenting Memory for a Music Chip"; U.S. Patent No. 5,862,182 (the "'182 patent"), entitled "OFDM Digital Communications System Using Complementary Codes"; U.S. Patent No. 5,920,552 (the "'552 patent"), entitled "Variable Rate Coding for Wireless Applications"; U.S. Patent No. 6,044,073 (the "'073 patent"), entitled "Methods of and Devices for Enhancing Communications that Use Spread Spectrum Technology by Using Variable Power Techniques"; U.S. Patent No. 6,404,732 (the "'732 patent"), entitled "Digital Modulation System Using Modified Orthogonal Codes to Reduce Autocorrelation"; U.S.

Patent No. 6,452,958 (the “958 patent”), entitled “Digital Modulation System Using Extended Code Set”; U.S. Patent No. 6,707,867 (the “867 patent”), entitled “Wireless Local Area Network Apparatus”; U.S. Patent No. 7,583,582 (the “582 patent”), entitled “M-ary Orthogonal Keying System”; and U.S. Patent No. 7,477,633 (the “633 patent”), entitled “Method and apparatus for varying the number of pilot tones in a multiple antenna communication system” (collectively, the “Agere Patents”) and of U.S. Patent No. 6,119,091 (the “091 patent”), entitled “DVD Audio Decoder Having a Direct Access PCM FIFO” (collectively with the Agere Patents, the “patents-in-suit”).

JURISDICTION AND VENUE

2. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction over the claims asserted herein under 28 U.S.C. §§ 1331, 1338(a).

3. Counterclaim Defendants filed their original and amended complaints for declaratory judgment in this Court.

4. On information and belief, Counterclaim Defendants promote, market, offer for sale, sell, or import products and/or services that directly or indirectly infringe the patents-in-suit within the Northern District of California.

5. Venue is proper in this district pursuant to 28 U.S.C. § 1391 and 1400(b). Defendants reserve the right to object to this forum as inconvenient under 28 U.S.C. § 1404.

PARTIES

6. Counterclaimant LSI is a Delaware corporation with its headquarters and principal place of business at 1621 Barber Lane, Milpitas, California 95035. LSI is a leading provider of silicon and software technologies, offering a broad portfolio of services including integrated circuits, adapters, and software. LSI has offices and carries out significant operations in Milpitas, California. LSI is the assignee of and owns all rights to the ’091 patent.

7. Counterclaimant Agere is a Delaware corporation with its principal place of business at 1110 American Parkway, N.E., Allentown, Pennsylvania 18109. Agere is the wholly owned subsidiary of LSI. Agere is the assignee of and owns all rights to the ’730, ’420, ’552,

1 '073, '867, '182, '732, '958, '582, and '633 patents.

2 8. Counterclaim Defendant Barnesandnoble.com is a Delaware corporation with
3 headquarters and principal place of business in New York, New York. Barnesandnoble.com
4 offers for sale, sells and distributes electronic book reader hardware (such as the various versions
5 of the "NOOK™"), Barnes & Noble software, and digital content for the electronic book readers
6 via the Internet, for example, though an eCommerce site accessible via the barnesandnoble.com
7 domain.

8 9. Counterclaim Defendant Barnes & Noble, the parent company of
9 Barnesandnoble.com, is a Delaware corporation with headquarters and principal place of business
10 in New York, New York. On information and belief, Barnes & Noble owns and operates a
11 network of retail stores that offers for sale and sells electronic book reader hardware (such as the
12 various versions of the NOOK™), as well as books, magazines, and related products.

13 **FIRST COUNTERCLAIM**

14 **(Infringement of U.S. Patent No. 5,670,730)**

15 10. Counterclaimants incorporate by reference paragraphs 1 through 9 above as if fully
16 set forth herein.

17 11. Agere has owned the '730 patent throughout the period of Counterclaim
18 Defendants' infringing acts and currently owns the '730 patent. A copy of the '730 patent,
19 entitled "Data Protocol and Method for Segmenting Memory for a Music Chip" is attached hereto
20 as **Exhibit A**.

21 12. Agere has provided notice of the '730 patent to Counterclaim Defendants through
22 at least filing and service of its complaint in the Eastern District of Pennsylvania, *Agere Systems*
23 *Inc., et al. v. Barnes & Noble, Inc., et al.*, Civil Action No. 5:11-cv-04751-LS (E.D. Pa.) (the
24 "Pennsylvania Action"), and by virtue of correspondence between the parties regarding the
25 patents-in-suit between June 2010 and April 2011.

26 13. On information and belief, Barnes & Noble has been, is currently, and unless
27 enjoined, will continue to directly infringe one or more claims of the '730 patent by making,
28 using, offering to sell, and selling within the United States and/or importing into the United States

1 audio player devices, such as the NOOK™, for storing and playing “MP3/ID3” encoded audio
2 files. These devices embody and/or practice one or more claims of the ’730 patent.

3 14. On information and belief, Barnesandnoble.com has been, is currently, and unless
4 enjoined, will continue to directly infringe one or more claims of the ’730 patent by making,
5 using, offering to sell, and selling within the United States and/or importing into the United
6 States, audio player devices, such as the NOOK™, for storing and playing “MP3/ID3” encoded
7 audio files. These devices embody and/or practice one or more claims of the ’730 patent.

8 15. On information and belief, Barnes & Noble has been, is currently, and unless
9 enjoined, will continue to actively induce and encourage infringement of the ’730 patent. On
10 information and belief, the ’730 patent has been, is currently, and will continue to be directly
11 infringed within the United States, including within this district, by at least Barnes & Noble’s
12 customers using the MP3/ID3 audio storage capability in the audio player devices, such as the
13 NOOK™. On information and belief, Barnes & Noble actively encourages that infringement
14 with specific intent to induce and encourage such infringement or at a minimum with deliberate
15 indifference to the known risk of such infringement.

16 16. On information and belief, Barnesandnoble.com has been, is currently, and unless
17 enjoined, will continue to actively induce and encourage infringement of the ’730 patent. On
18 information and belief, the ’730 patent has been, is currently, and will continue to be directly
19 infringed within the United States, including within this district, by at least Barnesandnoble.com’s
20 customers using the MP3/ID3 audio storage capability in the audio player devices, such as the
21 NOOK™. On information and belief, Barnesandnoble.com actively encourages that infringement
22 with specific intent to induce and encourage such infringement or at a minimum with deliberate
23 indifference to the known risk of such infringement.

24 17. On information and belief, Barnes & Noble has been, is currently, and unless
25 enjoined, will continue to contribute to the infringement of the ’730 patent by making, using,
26 offering to sell, and selling within the United States and/or importing into the United States, one
27 or more components of audio player devices that constitute a material part of the invention recited
28 in one or more claims of the ’730 patent, that are especially made or adapted for use in an

1 infringement of the '730 patent, and that are not a staple article or commodity of commerce
2 suitable for substantial non-infringing use.

3 18. On information and belief, Barnesandnoble.com has been, is currently, and unless
4 enjoined, will continue to contribute to the infringement of the '730 patent by making, using,
5 offering to sell, and selling within the United States and/or importing into the United States, one
6 or more components of audio player devices that constitute a material part of the invention recited
7 in one or more claims of the '730 patent, that are especially made or adapted for use in an
8 infringement of the '730 patent, and that are not a staple article or commodity of commerce
9 suitable for substantial non-infringing use.

10 19. On information and belief, Barnes & Noble exercises control and direction over
11 Barnesandnoble.com's infringing acts described above via a contractual and/or agency
12 relationship, making Barnes & Noble therefore liable for such acts.

13 20. Counterclaim Defendants' direct and indirect infringement are willful because
14 Counterclaim Defendants knew or should have known of the '730 patent and that their acts
15 described above would directly and/or indirectly infringe the '730 patent, but acted despite an
16 objectively high likelihood that such acts would infringe the patent. Moreover, Counterclaim
17 Defendants continue the infringing acts described above even after being informed in June 2010
18 of the existence and their infringement of the '730 patent.

19 21. As a direct and proximate consequence of Counterclaim Defendants' infringement
20 and willful infringement of the '730 patent, Agere has suffered and will continue to suffer
21 irreparable injury and damages, in an amount not yet determined, for which Agere is entitled to
22 relief. Agere seeks damages and treble damages, as well as preliminary and permanent injunctive
23 relief against further infringement.

24 **SECOND COUNTERCLAIM**

25 **(Infringement of U.S. Patent No. 5,546,420)**

26 22. Counterclaimants incorporate by reference paragraphs 1 through 9 above as if fully
27 set forth herein.

28 23. Agere has owned the '420 patent throughout the period of Counterclaim

1 Defendants' infringing acts and currently owns the '420 patent. A copy of the '420 patent,
2 entitled "Methods of and Devices for Enhancing Communications That Use Spread Spectrum
3 Technology by Using Variable Code Techniques" is attached hereto as **Exhibit B**.

4 24. Agere has provided notice of the '420 patent to Counterclaim Defendants through
5 at least the filing and service of the Pennsylvania Action and by virtue of correspondence between
6 the parties regarding the patents-in-suit between June 2010 and April 2011.

7 25. On information and belief, Barnes & Noble has been, is currently, and unless
8 enjoined, will continue to directly infringe one or more claims of the '420 patent by making,
9 using, offering to sell, and selling within the United States and/or importing into the United States
10 devices that provide connectivity in compliance with the Third Generation Wideband Code
11 Division Multiple Access ("3G W-CDMA" or "3G") cellular standards, such as the NOOK™.
12 These devices embody and/or practice one or more claims of the '420 patent.

13 26. On information and belief, Barnesandnoble.com has been, is currently, and unless
14 enjoined, will continue to directly infringe one or more claims of the '420 patent by making,
15 using, offering to sell, and selling within the United States and/or importing into the United States
16 devices that provide connectivity in compliance with the Third Generation Wideband Code
17 Division Multiple Access ("3G W-CDMA" or "3G") cellular standards, such as the NOOK™.
18 These devices embody and/or practice one or more claims of the '420 patent.

19 27. On information and belief, Barnes & Noble has been, is currently, and unless
20 enjoined, will continue to actively induce and encourage infringement of the '420 patent. On
21 information and belief, the '420 patent has been, is currently, and will continue to be directly
22 infringed within the United States, including within this district, by at least Barnes & Noble's
23 customers using the 3G connectivity capability of the NOOK™ or other devices to access Barnes
24 & Noble and Barnesandnoble.com's content. On information and belief, Barnes & Noble
25 actively encourages that infringement with specific intent to induce and encourage such
26 infringement or at a minimum with deliberate indifference to the known risk of such
27 infringement.

28 28. On information and belief, Barnesandnoble.com has been, is currently, and unless

1 enjoined, will continue to actively induce and encourage infringement of the '420 patent. On
2 information and belief, the '420 patent has been, is currently, and will continue to be directly
3 infringed within the United States, including within this district, by at least Barnesandnoble.com's
4 customers using the 3G connectivity capability of the NOOK™ or other devices to access Barnes
5 & Noble and Barnesandnoble.com's content. On information and belief, Barnesandnoble.com
6 actively encourages that infringement with specific intent to induce and encourage such
7 infringement or at a minimum with deliberate indifference to the known risk of such
8 infringement.

9 29. On information and belief, Barnes & Noble has been, is currently, and unless
10 enjoined, will continue to contribute to the infringement of the '420 patent by making, using,
11 offering to sell, and selling within the United States and/or importing into the United States, one
12 or more components that constitute a material part of the invention recited in one or more claims
13 of the '420 patent, that are especially made or adapted for use in an infringement of the '420
14 patent, and that are not a staple article or commodity of commerce suitable for substantial non-
15 infringing use.

16 30. On information and belief, Barnesandnoble.com has been, is currently, and unless
17 enjoined, will continue to contribute to the infringement of the '420 patent by making, using,
18 offering to sell, and selling within the United States and/or importing into the United States, one
19 or more components that constitute a material part of the invention recited in one or more claims
20 of the '420 patent, that are especially made or adapted for use in an infringement of the '420
21 patent, and that are not a staple article or commodity of commerce suitable for substantial non-
22 infringing use.

23 31. On information and belief, Barnes & Noble exercises control and direction over
24 Barnesandnoble.com's infringing acts described above via a contractual and/or agency
25 relationship, making Barnes & Noble therefore liable for such acts.

26 32. Counterclaim Defendants' direct and indirect infringement are willful because
27 Counterclaim Defendants knew or should have known of the '420 patent and that their acts
28 described above would directly and/or indirectly infringe the '420 patent, but acted despite an

1 objectively high likelihood that such acts would infringe the patent. Moreover, Counterclaim
 2 Defendants continue the infringing acts described above even after being informed in June 2010
 3 of the existence and their infringement of the '420 patent.

4 33. As a direct and proximate consequence of Counterclaim Defendants' infringement
 5 and willful infringement of the '420 patent, Agere has suffered and will continue to suffer
 6 irreparable injury and damages, in an amount not yet determined, for which Agere is entitled to
 7 relief. Agere seeks damages and treble damages, as well as preliminary and permanent injunctive
 8 relief against further infringement.

9 **THIRD COUNTERCLAIM**

10 **(Infringement of U.S. Patent No. 5,920,552)**

11 34. Counterclaimants incorporate by reference paragraphs 1 through 9 above as if fully
 12 set forth herein.

13 35. Agere has owned the '552 patent throughout the period of Counterclaim
 14 Defendants' infringing acts and currently owns the '552 patent. A copy of the '552 patent,
 15 entitled "Variable Rate Coding for Wireless Applications" is attached hereto as **Exhibit C**.

16 36. Agere has provided notice of the '552 patent to Counterclaim Defendants through
 17 at least the filing and service of the Pennsylvania Action and by virtue of correspondence between
 18 the parties regarding the patents-in-suit between June 2010 and April 2011.

19 37. On information and belief, Barnes & Noble has been, is currently, and unless
 20 enjoined, will continue to directly infringe one or more claims of the '552 patent by making,
 21 using, offering to sell, and selling within the United States and/or importing into the United States
 22 devices that provide connectivity in compliance with the Third Generation Wideband Code
 23 Division Multiple Access ("3G W-CDMA" or "3G") cellular standards, such as the NOOK™.
 24 These devices embody and/or practice one or more claims of the '552 patent.

25 38. On information and belief, Barnesandnoble.com has been, is currently, and unless
 26 enjoined, will continue to directly infringe one or more claims of the '552 patent by making,
 27 using, offering to sell, and selling within the United States and/or importing into the United States
 28 devices that provide connectivity in compliance with the Third Generation Wideband Code

1 Division Multiple Access (“3G W-CDMA” or “3G”) cellular standards, such as the NOOK™.
2 These devices embody and/or practice one or more claims of the ’552 patent.

3 39. On information and belief, Barnes & Noble has been, is currently, and unless
4 enjoined, will continue to actively induce and encourage infringement of the ’552 patent. On
5 information and belief, the ’552 patent has been, is currently, and will continue to be directly
6 infringed within the United States, including within this district, by Barnes & Noble’s customers
7 using the 3G connectivity capability of the NOOK™ or other devices to access Barnes & Noble
8 and Barnesandnoble.com’s content. On information and belief, Barnes & Noble actively
9 encourages that infringement with specific intent to induce and encourage such infringement or at
10 a minimum with deliberate indifference to the known risk of such infringement.

11 40. On information and belief, Barnesandnoble.com has been, is currently, and unless
12 enjoined, will continue to actively induce and encourage infringement of the ’552 patent. On
13 information and belief, the ’552 patent has been, is currently, and will continue to be directly
14 infringed within the United States, including within this district, by Barnesandnoble.com’s
15 customers using the 3G connectivity capability of the NOOK™ or other devices to access Barnes
16 & Noble and Barnesandnoble.com’s content. On information and belief, Barnesandnoble.com
17 actively encourages that infringement with specific intent to induce and encourage such
18 infringement or at a minimum with deliberate indifference to the known risk of such
19 infringement.

20 41. On information and belief, Barnes & Noble has been, is currently, and unless
21 enjoined, will continue to contribute to the infringement of the ’552 patent by making, using,
22 offering to sell, and selling within the United States and/or importing into the United States, one
23 or more components that constitute a material part of the invention recited in one or more claims
24 of the ’552 patent, that are especially made or adapted for use in an infringement of the ’552
25 patent, and that are not a staple article or commodity of commerce suitable for substantial non-
26 infringing use.

27 42. On information and belief, Barnesandnoble.com has been, is currently, and unless
28 enjoined, will continue to contribute to the infringement of the ’552 patent by making, using,

1 offering to sell, and selling within the United States and/or importing into the United States, one
2 or more components that constitute a material part of the invention recited in one or more claims
3 of the '552 patent, that are especially made or adapted for use in an infringement of the '552
4 patent, and that are not a staple article or commodity of commerce suitable for substantial non-
5 infringing use.

6 43. On information and belief, Barnes & Noble exercises control and direction over
7 Barnesandnoble.com's infringing acts described above via a contractual and/or agency
8 relationship, making Barnes & Noble therefore liable for such acts.

9 44. Counterclaim Defendants' direct and indirect infringement are willful because
10 Counterclaim Defendants knew or should have known of the '552 patent and that their acts
11 described above would directly and/or indirectly infringe the '552 patent, but acted despite an
12 objectively high likelihood that such acts would infringe the patent. Moreover, Counterclaim
13 Defendants continue the infringing acts described above even after being informed in June 2010
14 of the existence and their infringement of the '552 patent.

15 45. As a direct and proximate consequence of Counterclaim Defendants' infringement
16 and willful infringement of the '552 patent, Agere has suffered and will continue to suffer
17 irreparable injury and damages, in an amount not yet determined, for which Agere is entitled to
18 relief. Agere seeks damages and treble damages, as well as preliminary and permanent injunctive
19 relief against further infringement.

20 **FOURTH COUNTERCLAIM**

21 **(Infringement of U.S. Patent No. 6,044,073)**

22 46. Counterclaimants incorporate by reference paragraphs 1 through 9 above as if fully
23 set forth herein.

24 47. Agere has owned the '073 patent throughout the period of Counterclaim
25 Defendants' infringing acts and currently owns the '073 patent. A copy of the '073 patent,
26 entitled "Methods of and Devices for Enhancing Communications that Use Spread Spectrum
27 Technology by Using Variable Power Techniques" is attached hereto as **Exhibit D**.

28 48. Agere has provided notice of the '073 patent to Counterclaim Defendants through

1 at least the filing and service of the Pennsylvania Action and by virtue of correspondence between
2 the parties regarding the patents-in-suit between June 2010 and April 2011.

3 49. On information and belief, Barnes & Noble has been, is currently, and unless
4 enjoined, will continue to directly infringe one or more claims of the '073 patent by making,
5 using, offering to sell, and selling within the United States and/or importing into the United States
6 devices that provide connectivity in compliance with the Third Generation Wideband Code
7 Division Multiple Access ("3G W-CDMA" or "3G") cellular standards, such as the NOOK™.
8 These devices embody and/or practice one or more claims of the '073 patent.

9 50. On information and belief, Barnesandnoble.com has been, is currently, and unless
10 enjoined, will continue to directly infringe one or more claims of the '073 patent by making,
11 using, offering to sell, and selling within the United States and/or importing into the United States
12 devices that provide connectivity in compliance with the Third Generation Wideband Code
13 Division Multiple Access ("3G W-CDMA" or "3G") cellular standards, such as the NOOK™.
14 These devices embody and/or practice one or more claims of the '073 patent.

15 51. On information and belief, Barnes & Noble has been, is currently, and unless
16 enjoined, will continue to actively induce and encourage infringement of the '073 patent. On
17 information and belief, the '073 patent has been, is currently, and will continue to be directly
18 infringed within the United States, including within this district, by Barnes & Noble's customers
19 using the 3G connectivity capability of the NOOK™ or other devices to access Barnes & Noble
20 and Barnesandnoble.com's content. On information and belief, Barnes & Noble actively
21 encourages that infringement with specific intent to induce and encourage such infringement or at
22 a minimum with deliberate indifference to the known risk of such infringement.

23 52. On information and belief, Barnesandnoble.com has been, is currently, and unless
24 enjoined, will continue to actively induce and encourage infringement of the '073 patent. On
25 information and belief, the '073 patent has been, is currently, and will continue to be directly
26 infringed within the United States, including within this district, by Barnesandnoble.com's
27 customers using the 3G connectivity capability of the NOOK™ or other devices to access Barnes
28 & Noble and Barnesandnoble.com's content. On information and belief, Barnesandnoble.com

1 actively encourages that infringement with specific intent to induce and encourage such
2 infringement or at a minimum with deliberate indifference to the known risk of such
3 infringement.

4 53. On information and belief, Barnes & Noble has been, is currently, and unless
5 enjoined, will continue to contribute to the infringement of the '073 patent by making, using,
6 offering to sell, and selling within the United States and/or importing into the United States, one
7 or more components that constitute a material part of the invention recited in one or more claims
8 of the '073 patent, that are especially made or adapted for use in an infringement of the '073
9 patent, and that are not a staple article or commodity of commerce suitable for substantial non-
10 infringing use.

11 54. On information and belief, Barnesandnoble.com has been, is currently, and unless
12 enjoined, will continue to contribute to the infringement of the '073 patent by making, using,
13 offering to sell, and selling within the United States and/or importing into the United States, one
14 or more components that constitute a material part of the invention recited in one or more claims
15 of the '073 patent, that are especially made or adapted for use in an infringement of the '073
16 patent, and that are not a staple article or commodity of commerce suitable for substantial non-
17 infringing use.

18 55. On information and belief, Barnes & Noble exercises control and direction over
19 Barnesandnoble.com's infringing acts described above via a contractual and/or agency
20 relationship, making Barnes & Noble therefore liable for such acts.

21 56. Counterclaim Defendants' direct and indirect infringement are willful because
22 Counterclaim Defendants knew or should have known of the '073 patent and that their acts
23 described above would directly and/or indirectly infringe the '073 patent, but acted despite an
24 objectively high likelihood that such acts would infringe the patent. Moreover, Counterclaim
25 Defendants continue the infringing acts described above even after being informed in June 2010
26 of the existence and their infringement of the '073 patent.

27 57. As a direct and proximate consequence of Counterclaim Defendants' infringement
28 and willful infringement of the '073 patent, Agere has suffered and will continue to suffer

1 irreparable injury and damages, in an amount not yet determined, for which Agere is entitled to
 2 relief. Agere seeks damages and treble damages, as well as preliminary and permanent injunctive
 3 relief against further infringement.

4 **FIFTH COUNTERCLAIM**

5 **(Infringement of U.S. Patent No. 6,707,867)**

6 58. Counterclaimants incorporate by reference paragraphs 1 through 9 above as if fully
 7 set forth herein.

8 59. Agere has owned the '867 patent throughout the period of Counterclaim
 9 Defendants' infringing acts and currently owns the '867 patent. A copy of the '867 patent,
 10 entitled "Wireless Local Area Network Apparatus" is attached hereto as **Exhibit E**.

11 60. Agere has provided notice of the '867 patent to Counterclaim Defendants through
 12 at least the filing and service of the Pennsylvania Action and by virtue of correspondence between
 13 the parties regarding the patents-in-suit between June 2010 and April 2011.

14 61. On information and belief, Barnes & Noble has been, is currently, and unless
 15 enjoined, will continue to directly infringe one or more claims of the '867 patent by making,
 16 using, offering to sell, and selling within the United States and/or importing into the United States
 17 devices that provide wireless connectivity capability in compliance with the Institute of Electrical
 18 and Electronics Engineers ("IEEE") 802.11 wireless standards, such as the NOOK™. These
 19 devices embody and/or practice one or more claims of the '867 patent.

20 62. On information and belief, Barnesandnoble.com has been, is currently, and unless
 21 enjoined, will continue to directly infringe one or more claims of the '867 patent by making,
 22 using, offering to sell, and selling within the United States and/or importing into the United States
 23 devices that provide wireless connectivity capability in compliance with the Institute of Electrical
 24 and Electronics Engineers ("IEEE") 802.11 wireless standards, such as the NOOK™. These
 25 devices embody and/or practice one or more claims of the '867 patent.

26 63. On information and belief, Barnes & Noble has been, is currently, and unless
 27 enjoined, will continue to actively induce and encourage infringement of the '867 patent. On
 28 information and belief, the '867 patent has been, is currently, and will continue to be directly

1 infringed within the United States, including within this district, by Barnes & Noble's customers
2 using the wireless connectivity capability of the NOOK™ or other devices to access Barnes &
3 Noble and Barnesandnoble.com's content. On information and belief, Barnes & Noble actively
4 encourages that infringement with specific intent to induce and encourage such infringement or at
5 a minimum with deliberate indifference to the known risk of such infringement.

6 64. On information and belief, Barnesandnoble.com has been, is currently, and unless
7 enjoined, will continue to actively induce and encourage infringement of the '867 patent. On
8 information and belief, the '867 patent has been, is currently, and will continue to be directly
9 infringed within the United States, including within this district, by Barnes & Noble's customers
10 using the wireless connectivity capability of the NOOK™ or other devices to access Barnes &
11 Noble and Barnesandnoble.com's content. On information and belief, Barnes & Noble actively
12 encourages that infringement with specific intent to induce and encourage such infringement or at
13 a minimum with deliberate indifference to the known risk of such infringement.

14 65. On information and belief, Barnes & Noble has been, is currently, and unless
15 enjoined, will continue to contribute to the infringement of the '867 patent by making, using,
16 offering to sell, and selling within the United States and/or importing into the United States, one
17 or more components that constitute a material part of the invention recited in one or more claims
18 of the '867 patent, that are especially made or adapted for use in an infringement of the '867
19 patent, and that are not a staple article or commodity of commerce suitable for substantial non-
20 infringing use.

21 66. On information and belief, Barnesandnoble.com has been, is currently, and unless
22 enjoined, will continue to contribute to the infringement of the '867 patent by making, using,
23 offering to sell, and selling within the United States and/or importing into the United States, one
24 or more components that constitute a material part of the invention recited in one or more claims
25 of the '867 patent, that are especially made or adapted for use in an infringement of the '867
26 patent, and that are not a staple article or commodity of commerce suitable for substantial non-
27 infringing use.

28 67. On information and belief, Barnes & Noble exercises control and direction over

1 Barnesandnoble.com's infringing acts described above via a contractual and/or agency
2 relationship, making Barnes & Noble therefore liable for such acts.

3 68. Counterclaim Defendants' direct and indirect infringement are willful because
4 Counterclaim Defendants knew or should have known of the '867 patent and that their acts
5 described above would directly and/or indirectly infringe the '867 patent, but acted despite an
6 objectively high likelihood that such acts would infringe the patent. Moreover, Counterclaim
7 Defendants continue the infringing acts described above even after being informed in June 2010
8 of the existence and their infringement of the '867 patent.

9 69. As a direct and proximate consequence of Counterclaim Defendants' infringement
10 and willful infringement of the '867 patent, Agere has suffered and will continue to suffer
11 irreparable injury and damages, in an amount not yet determined, for which Agere is entitled to
12 relief. Agere seeks damages and treble damages, as well as preliminary and permanent injunctive
13 relief against further infringement.

14 **SIXTH COUNTERCLAIM**

15 **(Infringement of U.S. Patent No. 5,862,182)**

16 70. Counterclaimants incorporate by reference paragraphs 1 through 9 above as if fully
17 set forth herein.

18 71. Agere has owned the '182 patent throughout the period of Counterclaim
19 Defendants' infringing acts and currently owns the '182 patent. A copy of the '182 patent,
20 entitled "OFDM Digital Communications System Using Complementary Codes" is attached
21 hereto as **Exhibit F**.

22 72. Agere has provided notice of the '182 patent to Counterclaim Defendants through
23 at least the filing and service of the Pennsylvania Action and by virtue of correspondence between
24 the parties regarding the patents-in-suit between June 2010 and April 2011.

25 73. On information and belief, Barnes & Noble has been, is currently, and unless
26 enjoined, will continue to directly infringe one or more claims of the '182 patent by making,
27 using, offering to sell, and selling within the United States and/or importing into the United States
28 devices that provide wireless connectivity capability in compliance with the Institute of Electrical

1 and Electronics Engineers ("IEEE") 802.11 wireless standards, such as the NOOK™. These
2 devices embody and/or practice one or more claims of the '182 patent.

3 74. On information and belief, Barnesandnoble.com has been, is currently, and unless
4 enjoined, will continue to directly infringe one or more claims of the '182 patent by making,
5 using, offering to sell, and selling within the United States and/or importing into the United States
6 devices that provide wireless connectivity capability in compliance with the Institute of Electrical
7 and Electronics Engineers ("IEEE") 802.11 wireless standards, such as the NOOK™. These
8 devices embody and/or practice one or more claims of the '182 patent.

9 75. On information and belief, Barnes & Noble has been, is currently, and unless
10 enjoined, will continue to actively induce and encourage infringement of the '182 patent. On
11 information and belief, the '182 patent has been, is currently, and will continue to be directly
12 infringed within the United States, including within this district, by Barnes & Noble's customers
13 using the NOOK™ or other devices to access Barnes & Noble and Barnesandnoble.com's
14 content. On information and belief, Barnes & Noble actively encourages that infringement with
15 specific intent to induce and encourage such infringement or at a minimum with deliberate
16 indifference to the known risk of such infringement.

17 76. On information and belief, Barnesandnoble.com has been, is currently, and unless
18 enjoined, will continue to actively induce and encourage infringement of the '182 patent. On
19 information and belief, the '182 patent has been, is currently, and will continue to be directly
20 infringed within the United States, including within this district, by Barnesandnoble.com's
21 customers using the NOOK™ or other devices to access Barnes & Noble and
22 Barnesandnoble.com's content. On information and belief, Barnesandnoble.com actively
23 encourages that infringement with specific intent to induce and encourage such infringement or at
24 a minimum with deliberate indifference to the known risk of such infringement.

25 77. On information and belief, Barnes & Noble has been, is currently, and unless
26 enjoined, will continue to contribute to the infringement of the '182 patent by making, using,
27 offering to sell, and selling within the United States and/or importing into the United States, one
28 or more components that constitute a material part of the invention recited in one or more claims

1 of the '182 patent, that are especially made or adapted for use in an infringement of the '182
2 patent, and that are not a staple article or commodity of commerce suitable for substantial non-
3 infringing use.

4 78. On information and belief, Barnesandnoble.com has been, is currently, and unless
5 enjoined, will continue to contribute to the infringement of the '182 patent by making, using,
6 offering to sell, and selling within the United States and/or importing into the United States, one
7 or more components that constitute a material part of the invention recited in one or more claims
8 of the '182 patent, that are especially made or adapted for use in an infringement of the '182
9 patent, and that are not a staple article or commodity of commerce suitable for substantial non-
10 infringing use.

11 79. On information and belief, Barnes & Noble exercises control and direction over
12 Barnesandnoble.com's infringing acts described above via a contractual and/or agency
13 relationship, making Barnes & Noble therefore liable for such acts.

14 80. Counterclaim Defendants' direct and indirect infringement are willful because
15 Counterclaim Defendants knew or should have known of the '182 patent and that their acts
16 described above would directly infringe the '182 patent, but acted despite an objectively high
17 likelihood that such acts would infringe the patent. Moreover, Counterclaim Defendants continue
18 the infringing acts described above even after being informed in June 2010 of the existence and
19 their infringement of the '182 patent.

20 81. As a direct and proximate consequence of Counterclaim Defendants' infringement
21 and willful infringement of the '182 patent, Agere has suffered and will continue to suffer
22 irreparable injury and damages, in an amount not yet determined, for which Agere is entitled to
23 relief. Agere seeks damages and treble damages, as well as preliminary and permanent injunctive
24 relief against further infringement.

25 **SEVENTH COUNTERCLAIM**

26 **(Infringement of U.S. Patent No. 6,404,732)**

27 82. Counterclaimants incorporate by reference paragraphs 1 through 9 above as if fully
28 set forth herein.

1 83. Agere has owned the '732 patent throughout the period of Counterclaim
2 Defendants' infringing acts and currently owns the '732 patent. A copy of the '732 patent,
3 entitled "Digital Modulation System Using Modified Orthogonal Codes to Reduce
4 Autocorrelation" is attached hereto as **Exhibit G**.

5 84. Agere has provided notice of the '732 patent to Counterclaim Defendants through
6 at least the filing and service of the Pennsylvania Action and by virtue of correspondence between
7 the parties regarding the patents-in-suit between June 2010 and April 2011.

8 85. On information and belief, Barnes & Noble has been, is currently, and unless
9 enjoined, will continue to directly infringe one or more claims of the '732 patent by making,
10 using, offering to sell, and selling within the United States and/or importing into the United States
11 devices that provide wireless connectivity capability in compliance with the Institute of Electrical
12 and Electronics Engineers ("IEEE") 802.11 wireless standards, such as the NOOK™. These
13 devices embody and/or practice one or more claims of the '732 patent.

14 86. On information and belief, Barnesandnoble.com has been, is currently, and unless
15 enjoined, will continue to directly infringe one or more claims of the '732 patent by making,
16 using, offering to sell, and selling within the United States and/or importing into the United States
17 devices that provide wireless connectivity capability in compliance with the Institute of Electrical
18 and Electronics Engineers ("IEEE") 802.11 wireless standards, such as the NOOK™. These
19 devices embody and/or practice one or more claims of the '732 patent.

20 87. On information and belief, Barnes & Noble has been, is currently, and unless
21 enjoined, will continue to actively induce and encourage infringement of the '732 patent. On
22 information and belief, the '732 patent has been, is currently, and will continue to be directly
23 infringed within the United States, including within this district, by Barnes & Noble's customers
24 using the wireless connectivity capability of the NOOK™ or other devices to access Barnes &
25 Noble and Barnesandnoble.com's content. On information and belief, Barnes & Noble actively
26 encourage that infringement with specific intent to induce and encourage such infringement or at
27 a minimum with deliberate indifference to the known risk of such infringement.

28 88. On information and belief, Barnesandnoble.com has been, is currently, and unless

1 enjoined, will continue to actively induce and encourage infringement of the '732 patent. On
2 information and belief, the '732 patent has been, is currently, and will continue to be directly
3 infringed within the United States, including within this district, by Barnesandnoble.com's
4 customers using the wireless connectivity capability of the NOOK™ or other devices to access
5 Barnes & Noble and Barnesandnoble.com's content. On information and belief,
6 Barnesandnoble.com actively encourages that infringement with specific intent to induce and
7 encourage such infringement or at a minimum with deliberate indifference to the known risk of
8 such infringement.

9 89. On information and belief, Barnes & Noble has been, is currently, and unless
10 enjoined, will continue to contribute to the infringement of the '732 patent by making, using,
11 offering to sell, and selling within the United States and/or importing into the United States, one
12 or more components that constitute a material part of the invention recited in one or more claims
13 of the '732 patent, that are especially made or adapted for use in an infringement of the '732
14 patent, and that are not a staple article or commodity of commerce suitable for substantial non-
15 infringing use.

16 90. On information and belief, Barnesandnoble.com has been, is currently, and unless
17 enjoined, will continue to contribute to the infringement of the '732 patent by making, using,
18 offering to sell, and selling within the United States and/or importing into the United States, one
19 or more components that constitute a material part of the invention recited in one or more claims
20 of the '732 patent, that are especially made or adapted for use in an infringement of the '732
21 patent, and that are not a staple article or commodity of commerce suitable for substantial non-
22 infringing use.

23 91. On information and belief, Barnes & Noble exercises control and direction over
24 Barnesandnoble.com's infringing acts described above via a contractual and/or agency
25 relationship, making Barnes & Noble therefore liable for such acts.

26 92. Counterclaim Defendants' direct and indirect infringement are willful because
27 Counterclaim Defendants knew or should have known of the '732 patent and that their acts
28 described above would directly and/or indirectly infringe the '732 patent, but acted despite an

objectively high likelihood that such acts would infringe the patent. Moreover, Counterclaim Defendants continue the infringing acts described above even after being informed in June 2010 of the existence and their infringement of the '732 patent.

93. As a direct and proximate consequence of Counterclaim Defendants' infringement and willful infringement of the '732 patent, Agere has suffered and will continue to suffer irreparable injury and damages, in an amount not yet determined, for which Agere is entitled to relief. Agere seeks damages and treble damages, as well as preliminary and permanent injunctive relief against further infringement.

EIGHTH COUNTERCLAIM

(Infringement of U.S. Patent No. 6,452,958)

94. Counterclaimants incorporate by reference paragraphs 1 through 9 above as if fully set forth herein.

95. Agere has owned the '958 patent throughout the period of Counterclaim Defendants' infringing acts and currently owns the '958 patent. A copy of the '958 patent, entitled "Digital Modulation System Using Extended Code Set" is attached hereto as **Exhibit H**.

96. Agere has provided notice of the '958 patent to Counterclaim Defendants through at least the filing and service of the Pennsylvania Action and by virtue of correspondence between the parties regarding the patents-in-suit between June 2010 and April 2011.

97. On information and belief, Barnes & Noble has been, is currently, and unless enjoined, will continue to directly infringe one or more claims of the '958 patent by making, using, offering to sell, and selling within the United States and/or importing into the United States devices that provide wireless connectivity capability in compliance with the Institute of Electrical and Electronics Engineers ("IEEE") 802.11 wireless standards, such as the NOOK™. These devices embody and/or practice one or more claims of the '958 patent.

98. On information and belief, Barnesandnoble.com has been, is currently, and unless enjoined, will continue to directly infringe one or more claims of the '958 patent by making, using, offering to sell, and selling within the United States and/or importing into the United States devices that provide wireless connectivity capability in compliance with the Institute of Electrical

1 and Electronics Engineers ("IEEE") 802.11 wireless standards, such as the NOOK™. These
2 devices embody and/or practice one or more claims of the '958 patent.

3 99. On information and belief, Barnes & Noble has been, is currently, and unless
4 enjoined, will continue to actively induce and encourage infringement of the '958 patent. On
5 information and belief, the '958 patent has been, is currently, and will continue to be directly
6 infringed within the United States, including within this district, by Barnes & Noble's customers
7 using the wireless connectivity capability of the NOOK™ or other devices to access Barnes &
8 Noble and Barnesandnoble.com's content. On information and belief, Barnes & Noble actively
9 encourages that infringement with specific intent to induce and encourage such infringement or at
10 a minimum with deliberate indifference to the known risk of such infringement.

11 100. On information and belief, Barnesandnoble.com has been, is currently, and unless
12 enjoined, will continue to actively induce and encourage infringement of the '958 patent. On
13 information and belief, the '958 patent has been, is currently, and will continue to be directly
14 infringed within the United States, including within this district, by Barnesandnoble.com's
15 customers using the wireless connectivity capability of Nook eReader devices, or other devices
16 with eReading functionality. On information and belief, Barnesandnoble.com actively
17 encourages that infringement with specific intent to induce and encourage such infringement or at
18 a minimum with deliberate indifference to the known risk of such infringement.

19 101. On information and belief, Barnes & Noble has been, is currently, and unless
20 enjoined, will continue to contribute to the infringement of the '958 patent by making, using,
21 offering to sell, and selling within the United States and/or importing into the United States, one
22 or more components that constitute a material part of the invention recited in one or more claims
23 of the '958 patent, that are especially made or adapted for use in an infringement of the '958
24 patent, and that are not a staple article or commodity of commerce suitable for substantial non-
25 infringing use.

26 102. On information and belief, Barnesandnoble.com has been, is currently, and unless
27 enjoined, will continue to contribute to the infringement of the '958 patent by making, using,
28 offering to sell, and selling within the United States and/or importing into the United States, one

1 or more components that constitute a material part of the invention recited in one or more claims
2 of the '958 patent, that are especially made or adapted for use in an infringement of the '958
3 patent, and that are not a staple article or commodity of commerce suitable for substantial non-
4 infringing use.

5 103. On information and belief, Barnes & Noble exercises control and direction over
6 Barnesandnoble.com's infringing acts described above via a contractual and/or agency
7 relationship, making Barnes & Noble therefore liable for such acts.

8 104. Counterclaim Defendants' direct and indirect infringement are willful because
9 Counterclaim Defendants knew or should have known of the '958 patent and that their acts
10 described above would directly and/or indirectly infringe the '958 patent, but acted despite an
11 objectively high likelihood that such acts would infringe the patent. Moreover, Counterclaim
12 Defendants continue the infringing acts described above even after being informed in June 2010
13 of the existence and their infringement of the '958 patent.

14 105. As a direct and proximate consequence of Counterclaim Defendants' infringement
15 and willful infringement of the '958 patent, Agere has suffered and will continue to suffer
16 irreparable injury and damages, in an amount not yet determined, for which Agere is entitled to
17 relief. Agere seeks damages and treble damages, as well as preliminary and permanent injunctive
18 relief against further infringement.

19 **NINTH COUNTERCLAIM**

20 **(Infringement of U.S. Patent No. 7,583,582)**

21 106. Counterclaimants incorporate by reference paragraphs 1 through 9 above as if fully
22 set forth herein.

23 107. Agere has owned the '582 patent throughout the period of Counterclaim
24 Defendants' infringing acts and currently owns the '582 patent. A copy of the '582 patent,
25 entitled "M-ARY Orthogonal Keying System" is attached hereto as **Exhibit I**.

26 108. Agere has provided notice of the '582 patent to Counterclaim Defendants through
27 at least the filing and service of the Pennsylvania Action and by virtue of correspondence between
28 the parties regarding the patents-in-suit between June 2010 and April 2011.

1 109. On information and belief, Barnes & Noble has been, is currently, and unless
2 enjoined, will continue to directly infringe one or more claims of the '582 patent by making,
3 using, offering to sell, and selling within the United States and/or importing into the United States
4 devices that provide wireless connectivity capability in compliance with the Institute of Electrical
5 and Electronics Engineers ("IEEE") 802.11 wireless standards, such as the NOOK™. These
6 devices embody and/or practice one or more claims of the '582 patent.

7 110. On information and belief, Barnesandnoble.com has been, is currently, and unless
8 enjoined, will continue to directly infringe one or more claims of the '582 patent by making,
9 using, offering to sell, and selling within the United States and/or importing into the United States
10 devices that provide wireless connectivity capability in compliance with the Institute of Electrical
11 and Electronics Engineers ("IEEE") 802.11 wireless standards, such as the NOOK™. These
12 devices embody and/or practice one or more claims of the '582 patent.

13 111. On information and belief, Barnes & Noble has been, is currently, and unless
14 enjoined, will continue to actively induce and encourage infringement of the '582 patent. On
15 information and belief, the '582 patent has been, is currently, and will continue to be directly
16 infringed within the United States, including within this district, by Barnes & Noble's customers
17 using the wireless connectivity capability of the NOOK™ or other devices to access Barnes &
18 Noble and Barnesandnoble.com's content. On information and belief, Barnes & Noble actively
19 encourages that infringement with specific intent to induce and encourage such infringement or at
20 a minimum with deliberate indifference to the known risk of such infringement.

21 112. On information and belief, Barnesandnoble.com has been, is currently, and unless
22 enjoined, will continue to actively induce and encourage infringement of the '582 patent. On
23 information and belief, the '582 patent has been, is currently, and will continue to be directly
24 infringed within the United States, including within this district, by Barnesandnoble.com's
25 customers using the wireless connectivity capability of the NOOK™ or other devices to access
26 Barnes & Noble and Barnesandnoble.com's content. On information and belief,
27 Barnesandnoble.com actively encourages that infringement with specific intent to induce and
28 encourage such infringement or at a minimum with deliberate indifference to the known risk of

1 such infringement.

2 113. On information and belief, Barnes & Noble has been, is currently, and unless
3 enjoined, will continue to contribute to the infringement of the '582 patent by making, using,
4 offering to sell, and selling within the United States and/or importing into the United States, one
5 or more components that constitute a material part of the invention recited in one or more claims
6 of the '582 patent, that are especially made or adapted for use in an infringement of the '582
7 patent, and that are not a staple article or commodity of commerce suitable for substantial non-
8 infringing use.

9 114. On information and belief, Barnesandnoble.com has been, is currently, and unless
10 enjoined, will continue to contribute to the infringement of the '582 patent by making, using,
11 offering to sell, and selling within the United States and/or importing into the United States, one
12 or more components that constitute a material part of the invention recited in one or more claims
13 of the '582 patent, that are especially made or adapted for use in an infringement of the '582
14 patent, and that are not a staple article or commodity of commerce suitable for substantial non-
15 infringing use.

16 115. On information and belief, Barnes & Noble exercises control and direction over
17 Barnesandnoble.com's infringing acts described above via a contractual and/or agency
18 relationship, making Barnes & Noble therefore liable for such acts.

19 116. Counterclaim Defendants' direct and indirect infringement are willful because
20 Counterclaim Defendants knew or should have known of the '582 patent and that their acts
21 described above would directly and/or indirectly infringe the '582 patent, but acted despite an
22 objectively high likelihood that such acts would infringe the patent. Moreover, Counterclaim
23 Defendants continue the infringing acts described above even after being informed in June 2010
24 of the existence and their infringement of the '582 patent.

25 117. As a direct and proximate consequence of Counterclaim Defendants' infringement
26 and willful infringement of the '582 patent, Agere has suffered and will continue to suffer
27 irreparable injury and damages, in an amount not yet determined, for which Agere is entitled to
28 relief. Agere seeks damages and treble damages, as well as preliminary and permanent injunctive

1 relief against further infringement.

2 **TENTH COUNTERCLAIM**

3 **(Infringement of U.S. Patent No. 7,477,633)**

4 118. Agere incorporates by reference paragraphs 1 through 9 above as if fully set forth
5 herein.

6 119. Agere has owned the '633 patent throughout the period of Counterclaim
7 Defendants' infringing acts and currently owns the '633 patent. A copy of the '633 patent,
8 entitled "Method and Apparatus for Varying the Number of Pilot Tones in a Multiple Antenna
9 Communication System" is attached hereto as **Exhibit J.**

10 120. On information and belief, Barnes & Noble has been, is currently, and unless
11 enjoined, will continue to directly infringe one or more claims of the '633 patent by making,
12 using, offering to sell, and selling within the United States and/or importing into the United States
13 devices that provide wireless connectivity capability in compliance with the Institute of Electrical
14 and Electronics Engineers ("IEEE") 802.11 wireless standards, such as the NOOK™. These
15 devices embody and/or practice one or more claims of the '633 patent.

16 121. On information and belief, Barnesandnoble.com has been, is currently, and unless
17 enjoined, will continue to directly infringe one or more claims of the '633 patent by making,
18 using, offering to sell, and selling within the United States and/or importing into the United States
19 devices that provide wireless connectivity capability in compliance with the Institute of Electrical
20 and Electronics Engineers ("IEEE") 802.11 wireless standards, such as the NOOK™. These
21 devices embody and/or practice one or more claims of the '633 patent.

22 122. On information and belief, Barnes & Noble has been, is currently, and unless
23 enjoined, will continue to actively induce and encourage infringement of the '582 patent. On
24 information and belief, the '633 patent has been, is currently, and will continue to be directly
25 infringed within the United States, including within this district, by Barnes & Noble's customers
26 using the wireless connectivity capability of the NOOK™ or other devices to access Barnes &
27 Noble and Barnesandnoble.com's content. On information and belief, Barnes & Noble actively
28 encourages that infringement with specific intent to induce and encourage such infringement or at

1 a minimum with deliberate indifference to the known risk of such infringement.

2 123. On information and belief, Barnesandnoble.com has been, is currently, and unless
3 enjoined, will continue to actively induce and encourage infringement of the '582 patent. On
4 information and belief, the '633 patent has been, is currently, and will continue to be directly
5 infringed within the United States, including within this district, by Barnesandnoble.com's
6 customers using the wireless connectivity capability of the NOOK™ or other devices to access
7 Barnes & Noble and Barnesandnoble.com's content. On information and belief,
8 Barnesandnoble.com actively encourages that infringement with specific intent to induce and
9 encourage such infringement or at a minimum with deliberate indifference to the known risk of
10 such infringement.

11 124. On information and belief, Barnes & Noble has been, is currently, and unless
12 enjoined, will continue to contribute to the infringement of the '633 patent by making, using,
13 offering to sell, and selling within the United States and/or importing into the United States, one
14 or more components that constitute a material part of the invention recited in one or more claims
15 of the '633 patent, that are especially made or adapted for use in an infringement of the '633
16 patent, and that are not a staple article or commodity of commerce suitable for substantial non-
17 infringing use.

18 125. On information and belief, Barnesandnoble.com has been, is currently, and unless
19 enjoined, will continue to contribute to the infringement of the '633 patent by making, using,
20 offering to sell, and selling within the United States and/or importing into the United States, one
21 or more components that constitute a material part of the invention recited in one or more claims
22 of the '633 patent, that are especially made or adapted for use in an infringement of the '633
23 patent, and that are not a staple article or commodity of commerce suitable for substantial non-
24 infringing use.

25 126. On information and belief, Barnes & Noble exercises control and direction over
26 Barnesandnoble.com's infringing acts described above via a contractual and/or agency
27 relationship, making Barnes & Noble therefore liable for such acts.

28 127. Counterclaim Defendants' direct and indirect infringement are willful because

Counterclaim Defendants knew or should have known of the '633 patent and that their acts described above would directly and/or indirectly infringe the '633 patent, but acted despite an objectively high likelihood that such acts would infringe the patent. Moreover, Counterclaim Defendants continue the infringing acts described above even after being informed no later than July 2011, as of the filing of Counterclaimants' complaint in the Eastern District of Pennsylvania, of the existence and their infringement of the '633 patent.

128. As a direct and proximate consequence of Counterclaim Defendants' infringement of the '633 patent, Agere has suffered and will continue to suffer irreparable injury and damages, in an amount not yet determined, for which Agere is entitled to relief. Agere seeks damages as well as preliminary and permanent injunctive relief against further infringement.

ELEVENTH COUNTERCLAIM
(Infringement of U.S. Patent No. 6,119,091)

129. LSI incorporates by reference paragraphs 1 through 9 above as if fully set forth herein.

130. LSI has owned the '091 patent throughout the period of Counterclaim Defendants' infringing acts and currently owns the '091 patent. A copy of the '091 patent, entitled "DVD Audio Decoder Having a Direct Access PCM FIFO" is attached hereto as **Exhibit K**.

131. LSI has provided notice of the '091 patent to Counterclaim Defendants through at least the filing and service of the Pennsylvania Action and by virtue of correspondence between the parties regarding the patents-in-suit between March 2011 and April 2011.

132. On information and belief, Barnes & Noble has been, is currently, and unless enjoined, will continue to directly infringe one or more claims of the '091 patent by making, using, offering to sell, and selling within the United States and/or importing into the United States the NOOK™, or other devices with audio decoders capable of, for example, producing keyboard sound effects, which embody and/or practice one or more claims of the '091 patent. These devices embody and/or practice one or more claims of the '091 patent.

133. On information and belief, Barnesandnoble.com has been, is currently, and unless enjoined, will continue to directly infringe one or more claims of the '091 patent by making,

1 using, offering to sell, and selling within the United States and/or importing into the United States
2 the NOOK™, or other devices with audio decoders capable of, for example, producing keyboard
3 sound effects, which embody and/or practice one or more claims of the '091 patent. These
4 devices embody and/or practice one or more claims of the '091 patent.

5 134. On information and belief, Barnes & Noble has been, is currently, and unless
6 enjoined, will continue to actively induce and encourage infringement of the '091 patent. On
7 information and belief, the '091 patent has been, is currently, and will continue to be directly
8 infringed within the United States, including within this district, by Barnes & Noble's customers
9 using the NOOK™ or other devices with audio decoders capable of, for example, producing
10 keyboard sound effects. On information and belief, Barnes & Noble actively encourages that
11 infringement with specific intent to induce and encourage such infringement or at a minimum
12 with deliberate indifference to the known risk of such infringement.

13 135. On information and belief, Barnesandnoble.com has been, is currently, and unless
14 enjoined, will continue to actively induce and encourage infringement of the '091 patent. On
15 information and belief, the '091 patent has been, is currently, and will continue to be directly
16 infringed within the United States, including within this district, by Barnesandnoble.com's
17 customers using the NOOK™ or other devices with audio decoders capable of, for example,
18 producing keyboard sound effects. On information and belief, Barnesandnoble.com actively
19 encourages that infringement with specific intent to induce and encourage such infringement or at
20 a minimum with deliberate indifference to the known risk of such infringement.

21 136. On information and belief, Barnes & Noble has been, is currently, and unless
22 enjoined, will continue to contribute to the infringement of the '091 patent by making, using,
23 offering to sell, and selling within the United States and/or importing into the United States, one
24 or more components that constitute a material part of the invention recited in one or more claims
25 of the '091 patent, that are especially made or adapted for use in an infringement of the '091
26 patent, and that are not a staple article or commodity of commerce suitable for substantial non-
27 infringing use.

28 137. On information and belief, Barnesandnoble.com has been, is currently, and unless

1 enjoined, will continue to contribute to the infringement of the '091 patent by making, using,
2 offering to sell, and selling within the United States and/or importing into the United States, one
3 or more components that constitute a material part of the invention recited in one or more claims
4 of the '091 patent, that are especially made or adapted for use in an infringement of the '091
5 patent, and that are not a staple article or commodity of commerce suitable for substantial non-
6 infringing use.

7 138. On information and belief, Barnes & Noble exercises control and direction over
8 Barnesandnoble.com's infringing acts described above via a contractual and/or agency
9 relationship, making Barnes & Noble therefore liable for such acts.

10 139. Counterclaim Defendants' direct and indirect infringement are willful because
11 Counterclaim Defendants knew or should have known of the '091 patent and that their acts
12 described above would directly and/or indirectly infringe the '091 patent, but acted despite an
13 objectively high likelihood that such acts would infringe the patent. Moreover, Counterclaim
14 Defendants continue the infringing acts described above even after being informed no later than
15 March 2011 of the existence and their infringement of the '091 patent.

16 140. As a direct and proximate consequence of Counterclaim Defendants' infringement
17 and willful infringement of the '091 patent, LSI has suffered and will continue to suffer
18 irreparable injury and damages, in an amount not yet determined, for which LSI is entitled to
19 relief. LSI seeks damages and treble damages, as well as preliminary and permanent injunctive
20 relief against further infringement.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Counterclaimants Agere and LSI demand the following relief against
23 Counterclaim Defendants Barnes & Noble and Barnesandnoble.com:

- 24 a) entry of a judgment declaring that Counterclaim Defendants have infringed, directly
25 and indirectly, one or more claims of the '730 patent;
- 26 b) a preliminary and permanent injunction against the continuing infringement of the
27 '730 patent;
- 28 c) entry of a judgment declaring that Counterclaim Defendants have infringed, directly

- 1 and indirectly, one or more claims of the '420 patent;
- 2 d) a preliminary and permanent injunction against the continuing infringement of the
- 3 '420 patent;
- 4 e) entry of a judgment declaring that Counterclaim Defendants have infringed, directly
- 5 and indirectly, one or more claims of the '552 patent;
- 6 f) a preliminary and permanent injunction against the continuing infringement of the
- 7 '552 patent;
- 8 g) entry of a judgment declaring that Counterclaim Defendants have infringed, directly
- 9 and indirectly, one or more claims of the '073 patent;
- 10 h) a preliminary and permanent injunction against the continuing infringement of the
- 11 '073 patent;
- 12 i) entry of a judgment declaring that Counterclaim Defendants have infringed, directly
- 13 and indirectly, one or more claims of the '867 patent;
- 14 j) a preliminary and permanent injunction against the continuing infringement of the
- 15 '867 patent;
- 16 k) entry of a judgment declaring that Counterclaim Defendants have infringed, directly
- 17 and indirectly, one or more claims of the '182 patent;
- 18 l) a preliminary and permanent injunction against the continuing infringement of the
- 19 '182 patent;
- 20 m) entry of a judgment declaring that Counterclaim Defendants have infringed, directly
- 21 and indirectly, one or more claims of the '732 patent;
- 22 n) a preliminary and permanent injunction against the continuing infringement of the
- 23 '732 patent;
- 24 o) entry of a judgment declaring that Counterclaim Defendants have infringed, directly
- 25 and indirectly, one or more claims of the '958 patent;
- 26 p) a preliminary and permanent injunction against the continuing infringement of the
- 27 '958 patent;
- 28 q) entry of a judgment declaring that Counterclaim Defendants have infringed, directly

- 1 and indirectly, one or more claims of the '582 patent;
- 2 r) a preliminary and permanent injunction against the continuing infringement of the
- 3 '582 patent;
- 4 s) entry of a judgment declaring that Counterclaim Defendants have infringed, directly
- 5 and indirectly, one or more claims of the '633 patent;
- 6 t) a preliminary and permanent injunction against the continuing infringement of the
- 7 '633 patent;
- 8 u) entry of a judgment declaring that Counterclaim Defendants have infringed, directly
- 9 and indirectly, one or more claims of the '091 patent;
- 10 v) a preliminary and permanent injunction against the continuing infringement of the
- 11 '091 patent;
- 12 w) damages to compensate Agere and LSI for Counterclaim Defendants' infringement,
- 13 pursuant to 35 U.S.C. § 284, said damages to be trebled because of Counterclaim
- 14 Defendants' willful infringement;
- 15 x) an award of pre-judgment and post-judgment interest and costs to Agere;
- 16 y) an award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285; and
- 17 z) such other and further relief as the Court may deem just and fair.

18 **DEMAND FOR JURY TRIAL**

19 Agere and LSI demand trial by jury on all issues so triable, pursuant to Federal Rule of

20 Civil Procedure 38.

21 Dated: November 1, 2011

FENWICK & WEST LLP

22
23 By: /s/ Ryan Tyz

24 Ryan Tyz
25 Attorneys for Defendants
26 LSI CORPORATION and
27 AGERE SYSTEMS INC.
28